

REMARKS

Applicant responds hereby to the office action dated July 20, 2007. Claims 2-3, 5-8, 10-11, 13, and 15 are amended hereby, claims 1, 9, 12, 14, and 16 are cancelled without prejudice or disclaimer of subject matter, and claims 17-19 are newly added without inserting new matter. Claims 2-8, 10-11, 13, 15, and 17-19 remain pending hereinafter, where claims 5, 6, 7, 10, 13, 15, and 17-18 are independent claims.

Favorable consideration and allowance of the claims of the present application are respectfully requested.

Response to rejections under 35 U.S.C. §101

In the Office Action, Claims 1-12, 14 and 16 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter.

Regarding claim 1 as filed, the Examiner alleged that none of the claimed components resembled components of an apparatus (processors, registers, computer storage).

The applicant has amended the claims to set forth language as “means plus function” format to invoke 35 U.S.C. §112 6th paragraph. In addition, the applicant suggests that an apparatus can be implemented with reconfigurable hardware. Each component implemented in the reconfigurable hardware is defined in hardware description languages as in software design. Therefore, an apparatus can be implemented without having well-known hardware components. Each component can be a customized hardware component. Specification of the present application also states at paragraph [0114] that “the present invention can be realized in hardware”.

Additionally, claim 5 now re-cast in independent form to include the subject matter of claim 1 (now cancelled) has been amended to include a practical application, which is “improving maintainability and robustness of programs”. The practical application is supported in paragraph [0002] of the applicant’s specification.

Regarding Claim 9, this claim is being cancelled, and the subject matter thereof incorporated in claim 10. Claim 10, as now amended, reflects proper *Beauregard* format as being

directed to a computer readable medium containing an inventive computer program (*In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995)).

Claims 12, 14 and 16 are cancelled without prejudice or disclaimer of subject matter and applicants respectfully reserve the right to file one or more continuation application regarding the same invention.

Response to rejections under 35 U.S.C. §102(a)

Further in the present Official Action, the Examiner rejects Claims 1-4, 8-9, and 11-16 under 35 U.S.C. §102(a) as allegedly being anticipated by Ogasawara (US Patent Application No. 2003/0018961). The Examiner does object to Claims 5-7 and 10 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Without conceding as to propriety of the prior art cited and applied against the claims and in effort to expedite prosecution, claim 1 is being cancelled and the subject matter of claim 1 is being incorporated in each of claims 5-7 indicated as allowable and now each of which is re-cast in independent form. Claim 9 is being cancelled and the subject matter of claim 9 is being incorporated in claim 10 now re-cast in independent form. Claim 13 is further being amended to incorporate patentable subject matter of claim 5 indicated as allowable. Claim 15 is amended to incorporate subject matter of claims 5 and 13, where claim 5 is indicated as allowable. The applicant thus respectfully requests that rejections of claims 1-4, 8-9, and 11-16 are withdrawn. The applicant reserves the right to pursue claims 1 and 9 in one or more divisional and/or continuation patent applications.

The Examiner indicates patentable subject matters in claims 5-7 and 10 at the end of Office Action. Claims 17-19 are being added by including the patentable subject matters as claim limitations. No new matter is being entered in these new claims 17-19. Particularly, new claim 17 includes subject matter of claims 6 and 13 as filed. New claim 18 includes subject matter of claims 7 and 13 as filed. Claim 19 is supported by paragraph [0034] of the present application. The paragraph [0034] discloses a function of optimizing is performed before executing a target program or during the execution. Claim 19 depends on amended claim 5.

Conclusion

Thus, in view of the foregoing, the Examiner is respectfully requested to enter new claims 17-19 and consider claims 2-8, 10-11, 13, 15, and 17-19, as amended herein, and to allow these claims to proceed to issuance, which action is respectfully solicited.

In view of the foregoing, this application is now believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve Fischman", with a long horizontal flourish extending to the right.

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